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Message Text

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ACTION STR-07

INFO OCT-01 ISO-00 STRE-00 AF-10 ARA-10 EA-10 EUR-12
NEA-11 AGRE-00 CEA-01 CIAE-00 COME-00 DODE-00
EB-08 FRB-03 H-01 INR-10 INT-05 L-03 LAB-04
NSAE-00 PA-01 CTME-00 AID-05 SS-15 ITC-01 TRSE-00
SP-02 SOE-02 OMB-01 DOE-15 NSCE-00 SSO-00 ICAE-00
INRE-00 /138 W
----------073845 112032Z /21
O 111702Z MAY 78
FM USMISSION GENEVA
TO SECSTATE WASHDC IMMEDIATE 9535
INFO AMEMBASSY BRUSSELS
AMEMBASSY TOKYO

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USMTN USEEC

ACTION STR FOR AMB WOLFF AND MATTHEISEN

STR PASS CODEL

E.O. 11652: N/A
TAGS: ETRD, MTN, EC
SUBJECT: JAPANESE SAFEGUARD TEXT

1. WE HAVE RECEIVED THE FOLLOWING JAPANESE TEXT WHICH DIFFERS SLIGHTLY FROM THE TEXT FURNISHED TO US INFORMALLY LAST WEEK AND WHICH WAS HAND CARRIED TO WASHINGTON BY MATHEISEN AND HARTZELL.

BEGIN TEXT: ARTICLE X NATURE OF SAFEGUARD ACTION

1. SAFEGUARD ACTIONS PURSUANT TO THIS AGREEMENT SHALL BE APPLIED ON A GLOBAL BASIS AND WITHOUT DISCRIMINATION
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AS BETWEEN SOURCES OF IMPORTS.

2. (1) NOTWITHSTANDING PARAGRAPH 1 OF THIS ARTICLE, IN UNUSUAL OR EXCEPTIONAL CIRCUMSTANCES WHERE IT IS CLEARLY ESTABLISHED THAT SERIOUS INJURY OR THREAT THEREOF AS PROVIDED FOR IN ARTICLE ( ), IS CAUSED BY SHARP AND SUBSTANTIAL INCREASE OF IMPORTS FROM ONE OR A LIMITED

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NUMBER OF COUNTRIES AND THAT THE EFFECTS OF IMPORTS FROM OTHER SOURCES ARE NEGLIGIBLE, AN IMPORTING COUNTRY MAY APPLY,WITH THE AGREEMENT OF THE EXPORTING COUNTRY CONCERNED, SAFEGUARD ACTION LIMITED TO SUCH INJURIOUS IMPORTS FROM THAT EXPORTING COUNTRY.

(2) IN ADDITION TO CRITERIA, CONDITIONS AND PROCE-DURES REQUIRED IN APPLYING SAFEGUARD ACTION PROVIDED FOR IN PARAGRAPH 1, THE SAFEGUARD ACTION PROVIDED FOR IN SUBPARAGRAPH (1) OF THIS PARAGRAPH SHALL ALSO MEET THE FOLLOWING REQUIREMENTS:

-- (I) EXISTENCE OF THE CIRCUMSTANCES PROVIDED FOR IN SUB-PARAGRAPH (1) OF THIS PARAGRAPH SHALL BE CLEARLY PROVED;

-- (II) PRIOR NOTIFICATION AND PRIOR CONSULTATION SHALL BE AFFORDED IN ADVANCE OF INVOCATION OF THE SAFEGUARD ACTION;

-- (III) SUCH SAFEGUARD ACTION SHALL BE APPLIED EQUITABLY AS BETWEEN IMPORTS CAUSING OR THREATENING TO CAUSE SERIOUS INJURY;

-- (IV) THE IMPORTING COUNTRY SHALL, ON MORE ADVANTAGEOUS TERMS THAN THOSE APPLIED TO A SAFEGUARD ACTION INVOKED UNDER PARAGRAPH 1, SET THE LEVEL OF IMPORT LIMITED OFFICIAL USE

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RESTRICTION AND ALLEVIATE THE LEVEL THEREOF DURING THE PERIOD OF APPLICATION;

-- (V) THE MAXIMUM PERIOD OF VALIDITY FOR SAFEGUARD ACTIONS PURSUANT TO THIS PARAGRAPH SHALL NOT EXCEED ( ) ASTERIK YEARS BRACKET ASTERIK SHORTER PERIOD THAN PERMITTED FOR SAFEGUARD ACTIONS PURSUANT TO PARAGRAPH 1 OF THIS ARTICLE BRACKET AND SHALL NOT BE EXTENDED;

-- (VI) IF THE EXPORTING COUNTRY SUBJECT TO THE SAFEGUARD ACTION PROVIDED FOR IN SUBPARAGRAPH (1) OF THIS PARAGRAPH CONSIDERS THAT IT IS PLACED IN A DISADVANTAGEOUS CONDITION IN RELATION TD OTHER EXPORTING COUNTRIES NOT SUBJECT TO THE SAID ACTION, IT MAY REQUEST CONSULTATION TO THE COUNTRY INVOKING THE SAFEGUARD ACTION AT ANY TIME THROUGHOUT THE PERIOD OF APPLICATION. THE COUNTRY INVOKING THE SAID ACTION SHALL CONSULT WITH THE REQUESTING COUNTRY WITHOUT DELAY. IF NO SATISFACTORY SOLUTION IS REACHED AS A RESULT OF THE CONSULTATION, THE EXPORTING COUNTRY MAY WITHDRAW THE CONSENT TO THE SAID ACTION;

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-- (VII) THE COUNTRY INVOKING THE SAFEGUARD ACTION SHALL OFFER SUFFICIENT COMPENSATION TO THE EXPORTING COUNTRY SUBJECT TO THE ACTION.
3. (1) IN THE EVENT THAT THE EXPORTING COUNTRY DOES NOT AGREE TO THE APPLICATION OF SAFEGUARD ACTION PROVIDED FOR IN SUB-PARAGRAPH (1) OF THE PRECEDING PARAGRAPH, THE IMPORTING COUNTRY MAY REFER THE MATTER TO THE SURVEILLANCE BODY, AND, WHEN A PRIOR APPROVAL BY SURVEILLANCE BODY, AS PROVIDED FOR IN THE FOLLOWING SUB-PARAGRAPH OF THIS PARAGRAPH, IS OBTAINED, MAY APPLY, NOTWITHSTANDING THE PROVISIONS OF SUB-PARAGRAPH 1 OF THE PRECEDING PARA-GRAPH OF THIS ARTICLE, SAFEGUARD ACTION LIMITED TO THOSE INJURIOUS IMPORTS.

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ACTION STR-07

INFO OCT-01 ISO-00 STRE-00 AF-10 ARA-10 EA-10 EUR-12
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SP-02 SOE-02 OMB-01 DOE-15 NSCE-00 SSO-00 ICAE-00
INRE-00 /138 W
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O 111702Z MAY 78
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MATTER TO IT PURSUANT TO THE PRECEDING SUB-PARAGRAPH, MAY APPROVE THE IMPLEMENTATION OF THE PROPOSED SAFEGUARD ACTION PROVIDED THAT, IN THE JUDGEMENT OF THE BODY, THE PROPOSED ACTION IS IN FULL COMPLIANCE WITH THE FOLLOWING REQUIREMENTS AS WELL AS THE CRITERIA, REQUIREMENTS AND PROCEDURES REQUIRED FOR THE APPLICATION OF SAFEGUARD ACTION UNDER PARAGRAPH 1 OF THIS ARTICLE:

-- (I) EXISTENCE OF CRITICAL CIRCUMSTANCES WHERE INVOCATION WITHOUT THE AGREEMENT OF THE EXPORTING COUNTRY ON THE PROPOSED ACTION IS NECESSARY (WHERE DELAY

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WOULD CAUSE DAMAGE DIFFICULT TO REPAIR) IS CLEARLY
ESTABLISHED;

-- (II) PROVISIONS OF (I) THROUGH (IV) AND (VII) OF
SUB-PARAGRAPH (2) OF PARAGRAPH 2 ARE OBSERVED;

-- (III) THE MAXIMUM DURATION OF THE APPLICATION
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SHALL NOT EXCEED ( ) YEARS BRACKET SHORTER PERIOD THAN
PERMITTED FOR THE ACTION UNDER PARAGRAPH 2 BRACKET AND
SHALL NOT BE EXTENDED;

(3) IF THE EXPORTING COUNTRY SUBJECT TO THE SAFEGUARD
ACTION PROVIDED FOR IN SUB-PARAGRAPH (1) OF THIS PARAGRAPH
CONSIDERS THAT THE PRIOR APPROVAL GIVEN BY THE SURVEILLANCE
BODY IS NO LONGER JUSTIFIED DUE TO CHANGES IN CIRCUMSTANCES
SUBSEQUENT TO THE SAID APPROVAL OR THAT IT IS PLACED IN
A DISADVANTAGEOUS CONDITION IN RELATION TO OTHER EXPORTING
COUNTRIES NOT SUBJECT TO THE SAID ACTION, IT MAY REFER
THE MATTER TO THE SURVEILLANCE BODY AT ANY TIME THROUGHOUT
THE APPLICATION OF THE SAID ACTION. UPON SUCH REFERRAL,
THE SURVEILLANCE BODY SHALL PROMPTLY RE-EXAMINE THE
SAID PRIOR APPROVAL.
4. EXPORTING COUNTRIES TO WHICH SAFEGUARD ACTIONS ARE
APPLIED RETAIN THE RIGHT OF RETALIATION AS UNDER
ARTICLE XIX OF THE GATT.

(1) THE AGREEMENT BY AN EXPORTING COUNTRY ON THE
SELECTIVE APPLICATION OF A SAFEGUARD ACTION AS PROVIDED
FOR IN THE PRECEDING PARAGRAPHS MAY INCLUDE AGREEMENT NOT
TO RESORT TO RETALIATION.

(2) WHERE AGREEMENT BY AN EXPORTING COUNTRY IS NOT
OBTAINED ON SELECTIVE APPLICATIDN OF SAFEGUARD ACTION
AND SUCH SAFEGUARD ACTION IS IMPLEMENTED WITH THE
PRIOR APPROVAL OF SURVEILLANCE BODY, THE EXPORTING
COUNTRY MAY HAVE IMMEDIATE RESORT TO RETALIATION.
END TEXT.

5. DRAFTED BY ADDUCI MCDONALD

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Secure: OPEN
Status: NATIVE
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TAGS: ETRD, JA, MTN, EEC
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Type: TE
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